From: Baresch, Virginia (HHS/OGA)
Sent: 31 Oct 2017 17:58:57 +0000
To: Stone, Lesley A
Subject: U.S. based NGO Definition

Hi Lesley
For your information, this is what I sent to our General Counsel POC.

(b)(5)

(b)(5)

(b)(5)

Page 02 of 10

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

(b)(5)

Ginny Baresch, R.N., M.P.H.
Senior Public Health Advisor
Office of Global Affairs
U.S. Department of Health & Human Services
Email: Virginia.Baresch@HHS.GOV or FSB7@CDC.GOV
Office: 202-260-6339 Mobile: (b)(6)
www.hhs.gov/global

From: Baresch, Virginia (HHS/OGA)
Sent: 20 Nov 2017 16:42:08 +0000
To: Stone, Lesley A
Subject: FW: Authoring assignment: N'weti Communication for Health - Confirmation of Compliance with Protecting Life in Global Health Assistance.

Hi Lesley

Hope you had a nice weekend. (b)(5)

(b)(5)

Let me know if you would like to chat about this.

How is the final draft of the report going?

Ginny Baresch, R.N., M.P.H.
Senior Public Health Advisor
Office of Global Affairs
U.S. Department of Health & Human Services
Email: Virginia.Baresch@HHS.GOV or FSB7@CDC.GOV
Office: 202-260-6339 Mobile: (b)(6)
www.hhs.gov/global

From: Wynne, Maggie (HHS/IOS)
Sent: Monday, November 20, 2017 11:23 AM
To: Baresch, Virginia (HHS/OGA); Bowman, Matthew (HHS/OGC); Alexander, Thomas (OS/OGA)
Cc: Stevenson, Sarah-Lloyd (HHS/IOS); Petruccelli, Anthony J. (HHS/ASFR); Grigsby, Garrett (HHS/OS/OGA)
Subject: RE: Authoring assignment: N'weti Communication for Health - Confirmation of Compliance with Protecting Life in Global Health Assistance.

Ginny,

(b)(5)

-Maggie

Deliberative and pre-decisional communication

From: Baresch, Virginia (HHS/OGA)
Sent: Monday, November 20, 2017 11:08 AM
To: Wynne, Maggie (HHS/IOS); Bowman, Matthew (HHS/OGC); Alexander, Thomas (OS/OGA)
Cc: Stevenson, Sarah-Lloyd (HHS/IOS); Petruccelli, Anthony J. (HHS/ASFR); Grigsby, Garrett (HHS/OS/OGA)
Subject: FW: Authoring assignment: N'weti Communication for Health - Confirmation of Compliance

with Protecting Life in Global Health Assistance.
Importance: High

Hi Maggie and Matt,

(b)(5)

Thank you

Ginny Baresch, R.N., M.P.H.
Senior Public Health Advisor
Office of Global Affairs
U.S. Department of Health & Human Services
Email: Virginia.Baresch@HHS.GOV or FSB7@CDC.GOV
Office: 202-260-6339 Mobile: (b)(6)
www.hhs.gov/global

From: Peacock, Jessica (HHS/OS/OGA)
Sent: Monday, November 20, 2017 9:43 AM
To: Eckstein, Erin (OS/OGA); Clarke, Elana (HHS/OS/OGA); Park, Jin (OS/OGA); Baresch, Virginia (HHS/OGA)
Cc: Adeniyi-Jones, Samuel (HHS/OS/OGA)
Subject: RE: Authoring assignment: N'weti Communication for Health - Confirmation of Compliance with Protecting Life in Global Health Assistance.

Sure thing, attached are the docs.

Regards,
Jessica

From: Eckstein, Erin (OS/OGA)
Sent: Monday, November 20, 2017 9:39 AM
To: Clarke, Elana (HHS/OS/OGA); Peacock, Jessica (HHS/OS/OGA); Park, Jin (OS/OGA); Baresch, Virginia (HHS/OGA)

Cc: Adeniyi-Jones, Samuel (HHS/OS/OGA)
Subject: RE: Authoring assignment: N'weti Communication for Health - Confirmation of Compliance with Protecting Life in Global Health Assistance.

Thanks, Elana. Also, Jessica, could you please send the document? Nweti is a partner in Mozambique, and I have always understood them to be a USAID partner.

Thanks,

Erin

From: Clarke, Elana (HHS/OS/OGA)
Sent: Monday, November 20, 2017 9:37 AM
To: Peacock, Jessica (HHS/OS/OGA); Park, Jin (OS/OGA); Baresch, Virginia (HHS/OGA)
Cc: Adeniyi-Jones, Samuel (HHS/OS/OGA); Eckstein, Erin (OS/OGA)
Subject: RE: Authoring assignment: N'weti Communication for Health - Confirmation of Compliance with Protecting Life in Global Health Assistance.

Hi Jessica,

(b)(5)

Elana

From: Peacock, Jessica (HHS/OS/OGA)
Sent: Tuesday, November 14, 2017 12:56 PM
To: Adeniyi-Jones, Samuel (HHS/OS/OGA); Clarke, Elana (HHS/OS/OGA); Abdulsabur, Nisah (HHS/OGA)
Subject: Authoring assignment: N'weti Communication for Health - Confirmation of Compliance with Protecting Life in Global Health Assistance.

Good afternoon all,
We received an authoring assignment today. Can the response be drafted by the COB on 11/27?

Regards,
Jessica Peacock
Management Analyst
Office of Global Affairs
Office of the Secretary
U.S. Department of Health & Human Services
Office: 202-260-1685 l Mobile: (b)(6)

From: Baresch, Virginia (HHS/OGA)
Sent: 9 Nov 2017 18:16:48 +0000
To: Bowman, Matthew (HHS/OGC)
Subject: FW: NGO's Definition

Hi Matt, Some background for the call at 2pm.

Hi Ginny,

(b)(5)

Please let me know. Happy to discuss.

Thanks,
Sudevi

From: Baresch, Virginia (HHS/OGA)
Sent: Tuesday, October 31, 2017 1:44 PM
To: Ghosh, Sudevi (CDC/OCOO/OGC) <ggq4@cdc.gov>
Subject: NGO's Definition
Importance: High

Hi Sudevi

(b)(5)

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

(b)(5)

Ginny Baresch, R.N., M.P.H.
Senior Public Health Advisor
Office of Global Affairs
U.S. Department of Health & Human Services
Email: Virginia.Baresch@HHS.GOV or FSB7@CDC.GOV
Office: 202-260-6339 Mobile: (b)(6)
www.hhs.gov/global

From: Baresch, Virginia (HHS/OGA)
Sent: 17 May 2018 18:03:47 +0000
To: Wynne, Maggie (HHS/IOS)
Subject: FW: Updates on Protecting Life in Global Health Assistance (PLGHA) Policy & Implementation
Attachments: 04-23-2018_CEE PLGHA DRAFT with PreAssessment Checklist.docx, 2018-00790-FOIA-OS.pdf, 2018-00822-FOIA-OS.pdf, HHS PLGHA DATA Summary 09302018.xlsx, HHS PLGHA FAQ 10272017.pdf, LINES_OF_INQUIRY_-_ENTRANCE_CONFERENCE.DOCX, NWeti Exemption_11132017.pdf, PLGHA 6 Month Review Final.pdf, PLGHA 6 month review QA Feb 6.pdf, PLGHA Updates Agenda.docx, PLGHA_ USG Field Training_August 2017.pdf, PROTECTING_LIFE_IN_GLOBAL_HEALTH_ASSISTANCE_-_SIX_MONTH_REVIEW_-_I.PDF, Sonke Exemption_02122018.pdf, USAID Draft communication to prime partners.docx, USAID Draft email to the field_PLGHA Data Call 5-9-18 (final 7pm).docx, USAID Draft Mission Data Call 5918 (final 7pm).xlsx, USAID Draft Washington Data Call 5-9-18 (final 7pm).xlsx

Maggie

Hope you are having a good day.

With regards to the meeting at 3pm.

(b)(5)

-----Original Appointment-----
From: Baresch, Virginia (HHS/OGA)
Sent: Friday, May 04, 2018 2:12 PM
To: Baresch, Virginia (HHS/OGA); Wynne, Maggie (HHS/IOS); Petruccelli, Anthony J. (HHS/ASFR); Alexander, Thomas (OS/OGA); Daravi, Kamran (HHS/OS/OGA); Eckstein, Erin (OS/OGA); Grifka, Michelle (OS/OB); Grigsby, Garrett (HHS/OS/OGA); Newland, Matthew (OS/OGA); Park, Jin (OS/OGA); Stevenson, Sarah-Lloyd (HHS/IOS); Valdez, Mary Lou (FDA/OC); Martin, Rebecca (CDC/CGH/OD); Brush, Charles (Adam) (CDC/CGH/OD); Dougherty, Pamela (CDC/CGH/OD); Pestorius, Ted (CDC/CGH/OD); Vinter, Serena (CDC/CGH/OD); Moser, Melanie A. (CDC/OCOO/OFR/OBS); Gardner, Beth (CDC/CGH/OD); Cormier, Justin (CDC/OD/CDCWO); Baden, David (CDC/OCOO/OFR); Capozzola, Christa (CDC/OCOO/OFR); Genson, Steven (CDC/OCOO/OFR); Khalil, Nancy M. (CDC/OCOO/OFR/OAS); Perry, Terrance W. (CDC/OCOO/OFR/OGS); Armstrong, Julie L. (CDC/OCOO/OFR/OPPC); Legier, Jamie W. (CDC/OCOO/OFR/OGS); Harrykissoon, Samantha (CDC/OCOO/OFR/OPPC); Wagner, Lisa (OS/OGA); Zebley, Kyle (HHS/OS/OGA); Bowman, Matthew (HHS/OGC); Foster, Constance (HHS/OGC); Ghosh, Sudevi (CDC/OCOO/OGC); Gianturco, Elizabeth (HHS/OGC); Kocher, Paula L. (CDC/OCOO/OGC); Sherman, Susan (HHS/OGC); Thombley, Melisa L. (HHS\OGC); Bird, Catherine (OS/OGC); Lloyd, Matt (OS/ASPA); Murphy, Ryan (OS/ASPA); Oakley, Caitlin B. (OS/ASPA); Amann, Josef (CDC/CGH/DGHT); Smith, Termika (CDC/CGH/DGHT); Yoest, Charmaine (OS/ASPA); Medley, Amy (CDC/CGH/DGHT); Premjee, Sharmeen (CDC/CGH/DGHT); Pumphrey, Heather (CDC/CGH/DGHT); Tomlinson, Hank (CDC/CGH/DGHT); Naglich, Valerie (CDC/CGH/DGHT); Sexton, Connie (CDC/CGH/DGHT); Saul, Janet (CDC/CGH/DGHT); Cheever, Laura (HRSA); Demby, Austin (HRSA); Nesseler, Kerry (HRSA); Razak, Myat Htoo (HRSA); Aguilar, Joseph (HRSA); Fleming, Mary (SAMHSA); Lopez, Elizabeth (SAMHSA/CMHS); Mitchell, Winnie (SAMHSA/OPPI); Ngwu, Ezuma (SAMHSA); Schwetz, Tara (NIH/OD) [E]; Bulls, Michelle G. (NIH/OD) [E]; Butrum, Bruce (NIH/FIC) [E]; Dean, Diane (NIH/OD) [E]; Sullivan, Donna (NIH/NIAID) [E]; Eisinger, Robert (NIH/OD) [E]; Wadsworth, Heather (NIH/OD) [C]; Hudgings, Carole (NIH/NIAID) [E]; Helfer, Jacqueline (NIH/OD) [C]; Kilmarx, Peter (NIH/FIC) [E]; Linde, Emily (NIH/NIAID) [E]; McGarey, Barbara (NIH/OD) [E]; Pearce, Shannon (NIH/FIC) [C]; stephanie.jackson3@nih.gov; Tabak,

Lawrence (NIH/OD) [E]; Tapley, Kate (NIH/OD) [E]; Handley, Gray (NIH/NIAID) [E]; Smith, Marcia (NIH/FIC) [E]; Barna, Lauren (OS/ASPR/OPP); Marinissen, Maria (OS/ASPR/OPP); Moudy, Robin (OS/ASPR/OPP); Perdue, Christopher (OS/ASPR/OPP); Stevens, Carolyn (OS/ASPR/OPP); Thornton, Cody R. (HHS/ASPR); Banerji, Subroto (HHS/OASH); Moskosky, Susan B (HHS/OASH); Clark, Barbara (HHS/ASL); Kemper, Laura (HHS/ASL); Palmer, Ashley (OS/ASFR); Davidson, Brent (OS/ASPR/OPP); Khalife, Alexandra (HHS/ASL)
Cc: Fowler, Erin (HRSA); Israel, Stormie (CDC/OCOO/OFR/OPPC); Lawton, Kay E. (CDC/CGH/OD); O'Connell, Christopher (SAMHSA/OPPI); Tipperman, Douglas (SAMHSA/OPPI); Smith, Sarah B. (CDC/OCOO/OFR/OGS); Bounds, Dionne (CDC/OCOO/OFR/OGS); Saindon, Elizabeth H. (HHS/OGC); Darr, Charles (HRSA); Phillips, Harold (HRSA); Herron, Anne (SAMHSA/OPPI); Moore, Tracey (CDC/OCOO/OFR/OGS)
Subject: Updates on Protecting Life in Global Health Assistance (PLGHA) Policy & Implementation
When: Thursday, May 17, 2018 3:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: (b)(6) Passcode (b)(6)

Agenda – PLGHA Updates

May 17, 2018

(b)(5)

(b)(5)

PLGHA Distribution List – please review

Page 04 of 61

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Page 05 of 61

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

POPULATION
RESEARCH
INSTITUTE

Michael Marquis
Department of Health and Human Services (HHS)
Freedom of Information Officer
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

March 27, 2018

Jonathan Abbamonte
Population Research Institute
109 E Main St
Front Royal, VA 22630

On January 23, 2017, President Donald Trump signed a presidential memorandum reinstating the Presidential Memorandum of January 22, 2001, for the Administrator of USAID (Restoration of the Mexico City Policy) (82 FR 8495). In the January 23, 2017 presidential memorandum, the President directed the Secretary of State, in coordination with the Secretary of the Department of Health and Human Services (HHS) to apply the requirements of the restored memorandum (i.e. the "Mexico City Policy") "to global health assistance furnished by all departments and agencies" and "to the extent allowable by law."

As a result, the HHS has adopted the HHS Standard Provision, Protecting Life in Global Health Assistance (May 2017) (see: https://hab.hrsa.gov/fundingopportunities/protectinglifeinglobalhealthassistancehhsmay2017.pdf) to be included in certain awards. However, it would seem from HHS Additional Requirement 35 (see: https://www.cdc.gov/grants/additionalrequirements/ar-35.html) and the Protecting Life in Global Health Assistance Six-Month Review issued on February 6, 2018 (https://www.state.gov/f/releases/other/278012.htm) that the HHS is only applying the HHS Standard Provision, Protecting Life in Global Health Assistance (May 2017) to global health assistance funds transferred to HHS from funds appropriated to the Department of State, United States Agency for International Development (USAID), and the Department of Defense (DoD).

Please provide for me a list of all the *funding accounts* that the HHS Standard Provision, Protecting Life in Global Health Assistance (May 2017) applies to. In doing so, please provide the ID number for each *funding account* as listed in the Federal Account Symbols and Titles (FAST) Book I and II as well as the appropriation heading under which each *funding account* derives its funding from as found in the Consolidated Appropriations Act, 2017 (Public Law 115-31).

For example, let's say the HHS Standard Provision, Protecting Life in Global Health Assistance (May 2017) applies to the CDC's global health account. I would need you to provide me with the following:

Account name	Funding account ID	Federal appropriation
Global Health, Centers for Disease Control and Prevention, Health and Human Services	75 0955	Title II, Department of Health and Human Services, Centers for Disease Control and Prevention, global health

If you are not able to provide this information in list format, please provide me any documents from an HHS employee(s) detailing how to apply the HHS Standard Provision, Protecting Life in Global Health Assistance to any global health assistance awarded through HHS, whether or not it was originally appropriated to the HHS, USAID, State Department, DoD or any other department or agency. Please also include any documents indicating which Notices of Funding Opportunity (NOFOs) require the inclusion of the language of the HHS Standard Provision, Protecting Life in Global Health Assistance.

I ask that the information and/or documents requested in this FOIA be obtained from all Offices, Agencies or other staff divisions to which my request pertains. I am requesting all relevant information and/or documents since Jan. 23, 2017. Please provide all information in electronic format.

Respectfully submitted,

Jonathan Abbamonte
Research Analyst
Population Research Institute
(540) 660-2733
jonathan@pop.org

Global Justice Center
Human Rights Through Rule of Law

Department of Health and Human Services
Freedom of Information Officer
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue SW
Washington, DC 20201

Via electronic submission

April 3, 2018

RE: FOIA Request – Fee Waiver and Expedition Requests Included

To whom it may concern:

This is a request for expedited production of records under the Freedom of Information Act, 5 U.S.C. § 552, Department of Health and Human Services implementing regulations at 22 C.F.R. § 171 *et seq*, and Attorney General Holder's Memorandum for Heads of Executive Departments and Agencies, dated March 19, 2009.

This request is being made by the Global Justice Center (GJC), a 501(c)(3) non-profit human rights organization based in New York specializing in the global enforcement of international law rights guarantees.

I. Definitions for this FOIA Request

1. "MATERIALS"- For purposes of this request, the term "materials" includes but is not limited to any and all objects, emails, writings, meeting notes, minutes, notations on documents, calendar notation of meetings or phone calls, power point presentations, telephone logs, drawings, graphs, charts, tables, electronic or computerized data compilations, budgets, accountings, electronic or computerized documents, photographs, audiotapes, videotapes, transcripts, drafts, correspondence, notes, notes of oral communications, and non-identical copies, including but not limited to copies with notations. This includes legal department memos or meeting notes, and all materials received by HHS even if not generated by HHS, such as a memo or request for clarity from HHS, the White House, or awardees.

2. "AWARDS" - For purposes of this request, the term "awards" includes all HHS partnerships grants, contracts, partnership agreements, and cooperative agreements, with US Non-Governmental Organizations, Foreign Non-Governmental Organizations, Public International Organizations, and with Foreign Governments. "Awards" includes any modifications relating to the abortion restrictions described herein.

Global Justice Center
11 Hanover Square, 6th Floor • New York, NY 10005 • P 212.725.6530 • F 212.725.6536

3. "ABORTION RESTRICTIONS ON FOREIGN ASSISTANCE"; "HELMS-RELATED RESTRICTIONS"; "MEXICO CITY POLICY-RELATED RESTRICTIONS"; "GLOBAL GAG RULE-RELATED RESTRICTIONS"- These terms are used interchangeably herein and refer to US abortion restrictions on foreign assistance, including the Helms Amendment to the Foreign Assistance Act, the Siljander Amendment, the Tihart Amendment, the Biden Amendment, the Kemp-Kasten Amendment, the Leahy Amendment and the "Protecting Life in Global Health Assistance" policy (also known as the Global Gag Rule or the Mexico City Policy) or any permutations of these restrictions as found in annual appropriations, federal legislation or HHS directives.

II. Request for Materials

A. Request for Portions of HHS Awards

We request information on all HHS emails, internal memos, contracts, grants and awards since May 15, 2017 that discuss or mention the six-month review of the "Protecting Life in Global Health Assistance" policy (PLGHA). This request includes materials regarding any grantees' refusal to sign the policy.[1] See conditions limiting this request *supra*.

We request that you produce responsive materials in their entirety, including all attachments, appendices, enclosures and/or exhibits. However, to the extent that a response to this request would require HHS to provide multiple copies of identical material, the request is limited so that only one copy of the identical material is requested. If the materials are too voluminous we will come to review them in person.

In the event you determine that materials contain information that falls within the statutory exemptions to mandatory disclosure, we request that such information be reviewed for possible discretionary disclosure. *See Chrysler Corp. v. Brown*, 441 U.S. 281, 293 (1979). We also request that, in accordance with 5 U.S.C. § 552(b), any and all reasonably segregable portions of otherwise exempt materials be produced. To the extent the request is denied, we expect to receive notice in writing, including a description of the information withheld, the reasons for denial, and any exemptions relied upon. *See* 22 C.F.R. § 212.36(a).

III. FEE WAIVER REQUEST

Please waive any applicable fees. GJC is a non-profit organization, with no commercial interest in documents requested and the information contained in the requested contracts are of significant public interest and will contribute significantly to public understanding of government operations and activities. As a human rights non-profit organization, GJC is primarily engaged in disseminating information. The public has an urgent need for information pertaining to the Helms Amendment, Global Gag Rule and general United States abortion policy as indicated in the requested materials—particularly in light of the fact that such policies may place the U.S. in violation of several international laws, norms and regimes including the Geneva Conventions and the Convention against Torture.

---

[1] *See* U.S. Department of State, *Protecting Life in Global Health Assistance Six-Month Review*, February 6, 2018, *available at* https://www.state.gov/f/releases/other/278012.htm

Global Justice Center
11 Hanover Square, 6th Floor • New York, NY 10005 • P 212.725.6530 • F 212.725.6536

Furthermore, for the purposes of a fee waiver determination, GJC can be considered a representative of the new media because it is "an entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes the work to an audience." A key component of GJC's work is to gather, analyze and distribute information that is of interest to the public through legal and advocacy publications which are made available to the public though our website, blog, Twitter, and Facebook and that are distributed through electronic newsletters.

IV. EXPEDITION REQUEST

Please provide expedited processing of this request. The materials requested are needed urgently, as they pertain to an issue under discussion in the public domain and within the administration and are critical to GJC's "August 12th Campaign," which challenges the U.S. government's compliance with the Geneva Conventions and related international laws ensuring complete medical treatment for girls and women who are victims of rape and torture in armed conflicts. The public has an urgent need for information pertaining to United States abortion restrictions and policy as indicated in the requested contracts. Further, the issue of the application of the abortion restrictions on conflict-related foreign aid is one under active consideration by the U.S. government and materially affects countless Americans, humanitarian service providers and victims of war. In addition, HHS previously granted expedited processing to another FOIA request of GJC's (2017-00983-FOIA-OS) that deals with U.S. abortion restrictions on foreign aid.

This request pertains to the direct impact of the United States' restriction of medical services provided to women and girls around the world, which is an issue of utmost importance and certainly constitutes a threat to "the life or physical safety of an individual." The U.S. government has laudably made ending the use of rape as a weapon of war a major focus of U.S. foreign policy. It has also repeatedly documented that the trauma, mortality, and morbidity of women rape victims is exacerbated for those who become pregnant from war rape. The Geneva Conventions' guarantee of full medical care for these war victims necessarily includes access to abortions. Ensuring the availability of abortion for these torture/war crimes victims is a matter of saving lives.

Further, since the reinstatement of the Mexico City Policy and its expansion through the "Protecting Life in Global Health Assistance" policy in 2017, numerous reports have been published detailing the devastating impact that this expanded policy will have on medical care received by millions around the world – not only sexual and reproductive medical care, but also programs to treat diseases like HIV/AIDS, malaria, and tuberculosis. There is a clear demand for greater information on changes to U.S. abortion policy, and the documents we have requested through the FOIA process will contribute significantly to the public's understanding of the full impact of the expanded Policy in conjunction with existing U.S. abortion restrictions on foreign aid.

GJC, as thought-leaders and advocacy lawyers, intends to use the requested information to evaluate new changes to U.S. policy, inform the public of these changes, and determine the how international law resolves potential issues accompanying the shift. Since 2010 GJC has been a reliable source of information and legal analysis concerning the U.S.'s foreign policy positions concerning reproductive health. With the information gathered as part of this request, we will issue press releases, analyses, explanatory memos and other media that will contribute significantly to public understanding of

Global Justice Center
11 Hanover Square, 6th Floor • New York, NY 10005 • P 212.725.6530 • F 212.725.6536

government operations and activities and utilize this information in our advocacy efforts around this issue.

We look forward to a determination on this request from you within 10 (ten) working days pursuant to 22 C.F.R. § 212.34(a) and to receive responsive materials within 20 days.

Thank you for your prompt attention to this request. Please call me at (212) 725-6530 ext. 203 if you have any questions or wish to obtain further information about the nature of the documents in which we are interested. The records should be sent to Akila Radhakrishnan, Global Justice Center, 11 Hanover Square, 6th Floor, New York, NY 10005.

Sincerely,

Akila Radhakrishnan
President (Acting), Global Justice Center

Global Justice Center
11 Hanover Square, 6th Floor • New York, NY 10005 • P 212.725.6530 • F 212.725.6536

Page 12 of 61

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

ENTRANCE CONFERENCE AGENDA
GAO ENGAGEMENT RE CONDITIONS ON GLOBAL HEALTH ASSISTANCE 102698

GAO KEY QUESTIONS

1. To which U.S. assistance agreements and contracts are federal agencies now applying the Mexico City Policy?

2. What actions have U.S. agencies taken when NGOs have declined to accept the Policy's terms, and what have been the results of these actions?

3. What is known about the impact of the policy on U.S. global health and family planning assistance?

NOTE:

GAO has reviewed "Protecting Life in Global Health Assistance: Six Month Review" which summarized application of the policy through the end of Fiscal Year 2017.

TOPICS FOR DISCUSSION

1. How did you identify the programs that would be subject (or not subject) to the reinstated Policy?

2. How were the individual grants and cooperative agreements summarized in the Six Month Review identified?

3. Has a determination been made on how to proceed with regard to contracts? (If so, how many such contracts have been identified?)

4. When has the policy been "applied" to ongoing activities – e.g. when new funds obligated? Dispersed?

5. How is the policy applied to sub-grantees?

6. Has the policy been applied to additional grants/cooperative agreements (contracts?) since the end of fiscal year 2017? Have additional partners declined to accept terms?

7. What has occurred when partners have declined to accept policy terms?

8. What have been significant challenges in implementing the policy?

9. Any information on implementation impact?

MATALON & NATHANI, LLP

1025 Connecticut Ave., NW, Suite 1000, Washington, D.C. 20036

www.matalon-nathani.com

NOV 1 3 2017

Renee R. Matalon, Esq.
(202) 828-1291
rmatalon@matalon-nathani.com

Nina G. Nathani, Esq.
(202) 828-1292
nnathani@matalon-nathani.com

November 6, 2017

The Honorable Secretary of State Rex W. Tillerson
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

The Honorable Acting Secretary of Health and Human Services Eric D. Hargan
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

RE: **N'weti Communication for Health – Confirmation of Compliance with Protecting Life in Global Health Assistance**

Dear Sirs:

I write as legal counsel to N'weti Communication for Health (N'weti), a Mozambican NGO. N'weti is the recipient of USAID Cooperative Agreement No. AID-656-A-17-00003 (the "CA"). On May 23, 2017, N'weti signed CA Modification #1, incorporating the "Protecting Life in Global Health Assistance" Standard Provision (PLGHA). The purpose of this letter is to clarify the intent of a previous letter from N'weti requesting an exemption from PLGHA, and to confirm N'weti's full compliance with PLGHA.

N'weti engages in communications services, community systems strengthening, service quality monitoring, and policy advocacy relating to the sexual and reproductive health and rights (SRHR) of young women and adolescent girls in Mozambique. None of N'weti's work involves the performance or promotion of abortion as a method of family planning, nor does N'weti provide financial support to any other foreign non-governmental organization that conducts such activities.

In addition its funding from the U.S. Government, N'weti receives funding from other government and non-government donors. None of that funding is used for abortion work or advocacy or in any way in violation of PLGHA. But some of N'weti's donors are placing conditions on their funding potentially at variance with N'weti's commitment to PLGHA. The prospect of losing other donor support due to its agreement to PLGHA prompted N'weti to write the enclosed letter on August 1, 2017 (the "Letter") seeking an exemption from PLGHA. The Letter was sent pursuant to the May 15, 2017 PRM Press Guidance stating that "In consultation with the Secretary of HHS, the Secretary of State may authorize … case by case exemptions to [PLGHA]."

It appears that the Letter may have raised questions about N'weti's commitment to PLGHA compliance. We wish to re-affirm that N'weti is in full compliance with PLGHA requirements, and will remain so throughout the term of the CA and any other awards subject to PLGHA. The Letter was aimed solely at avoiding conflicting donor conditions and possible loss of funding. N'weti did not seek an exemption to enable it to engage in activities inconsistent with PLGHA.

We trust that this confirmation of N'weti's full compliance with PLGHA will allay any concerns the earlier Letter may have raised. Please do not hesitate to contact me if you have any questions, or require any further information. I can be reached at (202) 828-1291 or rmatalon@matalon-nathain.com

Sincerely,

Renee R. Matalon, Esq.

Encl.: a/s

cc: Denise Namburete

August 01, 2017

The Honorable Secretary of State Rex W. Tillerson
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

The Honorable Secretary of Health and Human Services Thomas E. Price, M.D.
U.S. Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Request for Exemption from Certain Funding Restrictions under Protecting Life in Global Health Assistance Policy - **USAID Cooperative Agreement No. AID-656-A-17-00003**

Dear Sirs:

On January 23, 2017, President Trump issued a Presidential Memorandum reinstating the "Mexico City Policy" (renamed "Protecting Life in Global Health Assistance" by the Trump Administration and hereinafter referred to as the "Policy"). The memorandum directed the Secretary of State to extend, to the extent allowable by law, the Policy to global health assistance furnished by all departments or agencies. As a recipient of funding from USAID for our **Community-Based HIV Service Provision in the Southern Region of Mozambique, Cooperative Agreement No. AID-656-A-17-00003,** we understand that we are subject to the Policy.

However, the Trump Administration has announced a number of exceptions to the application of the Policy. On May 15, 2017, the administration issued further guidance regarding the Policy, stating that the Secretary of State, in consultation with the Secretary of Health and Human Services, may authorize case-by-case exemptions to the Policy.

We are writing to request an exemption from the terms of the Policy because (i) it would run counter to medical ethics rules in the applicable jurisdiction; and (ii) it goes beyond the scope of the provision of health assistance due to the fact that the organization runs many health programs under different management teams with separate funding sources. N'weti believes that the implementation of Policy would have more severe impact than it would be equitable.

Maputo/Sede:
Rua Lucas Elias Kumato, 288
Bairro da Sommerschield

Nampula:
Av. Eduardo Mondlane, 326
Edifício Hotel Girassol, 2º A

nweti@nweti.org.mz

N'weti – Health Communication hereby requests that it may be exempted from compliance with the standard provision in connection with the **Community-Based HIV Service Provision in the Southern Region of Mozambique, USAID Cooperative Agreement No. AID-656-A-17-00003**

Please contact us at the address below at your earliest convenience regarding this matter:
288, Lucas Elias Kumato Street, Sommesrchield
Maputo, Mozambique
Attn: Executive Director, Denise Namburete
Tel: 00258 21 485 253 / 00258 82 307 9630
Email: d.namburete@nweti.org.mz

Thank you for your attention to this matter.

Sincerely,

Denise Namburete
Executive Director
Nweti Comunicação para Saúde - *Communication for Health*

Renee R. Matalon, Esq.
Matalon & Nathanl, LLP
1025 Connecticut Ave., NW
Suite 1000
Washington, DC 20036

Hon. Acting Secretary of HHS Eric D. Hargan
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

20201-

Protecting Life in Global Health Assistance
Six-Month Review
February 6, 2018

The information below summarizes the implementation of the Protecting Life in Global Health Assistance (PLGHA) policy through the end of fiscal year 2017, and identifies implementation challenges that have arisen, along with actions to address them.

I. Background on Protecting Life in Global Health Assistance

On January 23, 2017, President Trump issued a Presidential memorandum reinstating the January 22, 2001, Presidential memorandum on the "Mexico City Policy" for family-planning assistance awarded by USAID, and directing the Secretary of State, in coordination with the Secretary of Health and Human Services, to implement a plan to extend the Mexico City Policy to "global health assistance furnished by all departments or agencies" to the extent allowable by law. The expanded policy is referred to as "Protecting Life in Global Health Assistance (PLGHA)."

On May 9, 2017, the Secretary of State, in coordination with Secretary of Health and Human Services, approved the implementation plan for the PLGHA policy. State, working with USAID, HHS, and DoD, committed to conduct a comprehensive review of progress in extending the policy to global health assistance, identify any implementation challenges, and recommend solutions to them. State has worked closely with USAID, HHS, and DoD to implement the policy consistently, examine progress in carrying it out, and monitor its effects.

With less than six months of policy implementation, it is too early to assess the full range of benefits and challenges of the PLGHA policy for global health assistance. State, HHS, DoD, and USAID have been adding a standard provision implementing the policy in new grants and cooperative agreements for global health assistance, and in existing global health assistance grants and cooperative agreements when they receive new funding. Departments and agencies obligated much of the global health assistance funding subject to the policy toward the end of the fiscal year, and not all existing agreements have received new funding, so the picture on progress and challenges is still developing.

The content of this report reflects both internal and external feedback. Each implementing department and agency conducted focus groups or structured conversations with selected internal operating units. USAID spoke with seven management teams at headquarters, as well as four field Missions. HHS spoke with four of its operating divisions that conduct programs to which the policy applies (the Centers for Disease Control and Prevention, the National Institutes of Health, the Health Resources and Services Administration, and the Substance Abuse and Mental Health Services Administration), and conducted focus groups with field staff in two countries. DoD focused its discussions at headquarters, where it awards and manages the majority of its agreements. In addition, in the course of implementing the policy, the Department of State and relevant departments and agencies conducted numerous calls and meetings with operating units, implementing partners, and other stakeholders that contributed to our analysis.

The Department of State requested stakeholder comments on the implementation of the policy to date. Thirty-one stakeholder groups, including three foreign governments as well as non-governmental entities, provided written comments. Of those stakeholder groups, several submitted comments in support of the policy. For example, the United States Conference of Catholic Bishops lauded PLGHA as "one of the most significant policy initiatives on abortion ever taken by the United States in an area of foreign assistance." Others expressed the need for guidance on aspects of the policy, concerns about the continuity of healthcare services, and a potential chilling effect of the policy on global health services in situations in which the application of the policy is unclear.

II. Implementation by U.S. Government Departments and Agencies

As of September 30, 2017, the Department of State (including the Office of the U.S. Global AIDS Coordinator and Health Diplomacy (S/GAC)), USAID, HHS, and DoD have taken multiple steps to implement the PLGHA policy. The interagency developed a common PLGHA standard provision for relevant agreements with minor department- or agency-specific variations. Departments and agencies are including the standard provision in grants and cooperative agreements for global health assistance, and are conducting numerous trainings to ensure the U.S. government workforce is appropriately applying the policy. In addition, the interagency is taking steps to develop a standard PLGHA clause in contracts for global health assistance at multiple departments and agencies.

Department of State

S/GAC directed the U.S. government departments and agencies that implement the President's Emergency Plan for AIDS Relief (PEPFAR) to include the PLGHA standard provision in all PEPFAR grant agreements for global health assistance. S/GAC included the standard provision in all centrally funded PEPFAR global health assistance awards completed by September 30; many awards had not been made as of that date. S/GAC facilitated web-based training across U.S. government implementing departments and agencies in over 60 countries to ensure the maximum number of staff could receive training on the policy. S/GAC has also conducted training of trainers, to allow the information to cascade to increasing numbers of U.S. government personnel around the world. For those activities managed through Department of State mechanisms, the standard provision will continue to be a part of all future global health assistance awards, and existing awards modified with new funding. The new standard provision is available on the Department of State website (https://www.state.gov/m/a/ope/index.htm).

U.S. Agency for International Development

USAID began implementing the policy on May 15, 2017. USAID has included the new PLGHA standard provision in all new grants and cooperative agreements that provide global health assistance, and in all existing grants and cooperative agreements that provide global health assistance when it amends such agreements to add incremental funding. USAID also is including the provision in all existing agreements that previously received the "Mexico City Policy (March 2017)" standard provision when such agreements are next modified, or as soon as reasonably practicable. The new standard provision, "Protecting Life in Global Health Assistance (May 2017)," is publicly available on the USAID website in the Agency's Automated Directives System (ADS) Chapter 303 (https://www.usaid.gov/ads/policy/300/303).

After the announcement of the PLGHA policy, USAID/Washington conducted extensive outreach to, and training for, its staff in the field and at headquarters. In addition, USAID established a team in Washington with representatives from across the Agency to oversee the proper implementation of the policy. USAID/Washington's outreach also included meetings with implementing partners to discuss the standard provision and its application.

USAID/Washington continually works with USAID's field missions to review programs, monitor compliance with the PLGHA policy and other requirements, and develop stronger, more-systematic procedures for monitoring and reporting. USAID has developed training materials and compliance tools to assist its staff and implementing partners in understanding and applying the policy, including a publicly available e-learning course that has been very well received. USAID/Washington continues to design additional tools to facilitate the policy's implementation, including a matrix to help staff review their programs to assess compliance risk related to the policy. This tool supports staff to identify potential vulnerabilities and develop effective monitoring strategies to ensure compliance with the policy. USAID shared the risk assessment matrix with all its missions that are implementing global health programs.

Department of Health and Human Services

Early in March 2017, HHS began to establish parameters for the implementation of the PLGHA policy across HHS. The HHS-specific standard provision was finalized and distributed for inclusion in all applicable grant awards as of May 31, 2017. The standard provision with explanatory language is published on grants management internet sites HHS-wide, and standard language appears in all Notices of Funding Opportunities (NOFOs) that expect to award global health assistance funds appropriated to State, USAID, and/or DoD and transferred to HHS.

HHS has integrated its compliance activities into grant award processes prior to the notice of award (NOA) via several methods of communication with the awardees, including through site visits, conference calls, emails, in-person conversations, official letters of notification, and postings on the websites of its operating divisions. At the time of issuance of an NOA, the relevant grants management and program staff review with the awardee the details of the policies and regulations that govern the acceptance of the PLGHA conditions. Official acceptance by the awardee of the provision occurs once the awardee draws down funds. Because the majority of these awards are cooperative agreements (which denote close working coordination and collaboration between HHS and an awardee), site visits, project oversight, monitoring calls, grant management meetings and other communications with the awardees occur on a frequent basis.

HHS has developed monitoring tools that implementing partners can use to monitor their programs for compliance with the PLGHA standard provision. Technical assistance from HHS is available to assist partners to use these standardized tools. To assist HHS staff, frequently asked questions (FAQs) specific to HHS grants management and partners are published on the HHS grants management Intranet site, accompanied by relevant background material, and updated as needed.

Department of Defense
All active DoD grants for global health assistance will include the provision by the end of FY 2018. DoD informed implementing partners regarding the provision prior to making an award. For all future awards, DoD will notify the implementing partner prior to its submission of a full proposal.

Contract Provision
Consistent with the PLGHA implementation plan, the Department of State and USAID initiated the process of developing, through rule-making, a PLGHA contract clause. It is expected that the requirements of the contract clause would be similar to those included in the standard provision for grants and cooperative agreements. The clause would be included in contracts for supplies or services for global health assistance except for the procurement of commercial items and services as defined in FAR 2.101, such as pharmaceuticals, medical supplies, logistics support, data management, and freight-forwarding. It would apply to foreign NGOs that receive global health assistance funding, either as prime contractors or as subcontractors of U.S. or foreign NGOs. The PLGHA policy will not apply to contracts for global health assistance until the rule-making process is completed.

Grants and Cooperative Agreements
The table below provides information about the number of affected agreements with prime implementing partners, i.e., those organizations that have a direct agreement with a U.S. department or agency. Information on sub-awards under these prime agreements is limited because U.S. departments and agencies only have a legal relationship with prime recipients.

Agency	Agency Implementation Date	Number of Grants and Cooperative Agreements with Global Health Assistance Funding	Number of Grants and Cooperative Agreements with Global Health Assistance Funding That Received New Funding from the Implementation Date through 9/30/2017 and are subject to the PLGHA policy
State[1]	15-May-17	142	108
USAID	15-May-17	580	419
HHS	31-May-17	499	160
DoD	15-May-17	77	42

[1This reflects PEPFAR funding implemented through the Department of State. (Other departments and agencies implement the majority of PEPFAR funding.)]

The table above demonstrates that a majority of global health assistance agreements have already received new funding, and therefore are subject to the PLGHA policy. Nearly all prime partners that have had the opportunity to accept the policy have done so; prime partners declined to sign in only four instances out of 733 awards. All four affected departments and agencies have existing assistance agreements that had not yet received their additional funding by September 30, 2017, which means implementers of those agreements had not yet received the PLGHA standard provision. The difference between the number of total agreements and the

agreements that have received funding since the effective date of the PLGHA policy reflects this; this number will decrease over the coming year as departments and agencies provide more funding to implementing partners.

As of September 30, 2017, USAID is aware of three centrally funded prime partners, and 12 sub-awardee implementing partners, that refused to agree to the PLGHA terms in their awards. USAID is working to transition the activities of those organizations that have not agreed to the PLGHA standard provision to other partners, while minimizing disruption of services. One DoD partner, a U.S. NGO, declined to agree in one country but accepted the PLGHA standard provision in other countries. No HHS partners declined as of September 30. It is too early to analyze systematically what effect, if any, this will have on programming. When a partner declines to agree to the policy and the department or agency reprograms funds to other organizations, the amount of funding directed to respective recipient countries will remain the same.

Training

Implementing departments and agencies have conducted numerous trainings on the PLGHA policy, and used standardized joint training materials developed by an interagency working group. In addition, USAID developed a free public e-learning course that, as of September 30, 2017, 4,572 people had taken, including staff, partners, and the general public. As of September 30, 2017, USAID/Washington has conducted nine in-person trainings at headquarters, two webinars, and two mission-level trainings. In total, USAID provided live training to approximately 453 staff at headquarters and in the field. S/GAC, with support from USAID, conducted an interagency train-the-trainer, and then a subsequent interagency webinar for over 60 countries that included 78 office connections. HHS conducted four webinar trainings across its operating divisions, with 254 staff participating. For CDC within HHS, training on the PLGHA policy is mandatory for regional associate directors, country directors, deputy directors, project officers, cooperative agreement officers, and extramural staff. DoD conducted one headquarters training, which all relevant staff were required to attend. In addition, all relevant DoD field staff participated in the S/GAC web-based training. In total, U.S. government training reached approximately 5,357 U.S. government employees, implementing partners, and other stakeholders through September 30, 2017.

USAID E-Learning Trainings
(through 9/30/17)

Trainee Organization	International NGO	National/Local NGO	Non-U.S.-Based University	Multilateral	National Gov't	U.S. Agency (CDC)	U.S. Agency (Other)	U.S. Agency (State)	U.S. Agency (USAID)	Other	No Response
Number Trained	2374	934	10	6	27	86	24	5	633	418	55
										TOTAL	4572

III. Findings and Actions

While partners presented with the standard provision have largely accepted the policy, stakeholder feedback and discussions with U.S. government staff indicate areas where further guidance is needed. Keeping in mind that the primary goal of the policy is to stop U.S. taxpayer funding from flowing to entities that promote or provide abortions as a method of family planning, several issues emerged as areas that could be clarified or improved. These include providing guidance around implementation, clarifying terms of the standard provision, strengthening monitoring, and continuing to review the policy.

Steps to Improve Understanding and Implementation of the PLGHA Policy

The information gathered to date demonstrates the need for further guidance regarding the PLGHA policy to improve a common understanding of its intent, implementation, compliance, and oversight. For example, organizations shared questions about what work falls within the provisions of the policy, including activities beyond direct services (such as referrals). Stakeholder input also indicates that some organizations are seeking additional guidance regarding what relationships are allowed with organizations that choose not to comply. Additional guidance would help increase clarity and address these concerns.

Action: Upon completion of additional review of policy guidance, U.S. government departments and agencies should provide harmonized, updated central and field-based training, tools for compliance and oversight, and publicly available frequently asked questions (FAQs) for the PLGHA policy that are translated into appropriate languages.

Application to U.S. State and Local Governmental Entities

As described in the PLGHA fact sheet, "[g]lobal health assistance to national or local governments, public international organizations, and other similar multilateral entities is *not* subject to [the PLGHA] policy." There was a question whether the standard provision on the PLGHA policy should be part of global health assistance awards to public universities, hospitals, or other state/local government entities in the United States.

Action: Clarify, including through the development of appropriate FAQs, that U.S. government departments and agencies must include the PLGHA standard provision in awards to U.S. state or local governmental entities, including state universities, in the same manner as they include it in awards to U.S. NGOs.

Guidance on the Terms of the Standard Provision for the Protecting Life in Global Health Assistance Policy

Based on the input received, stakeholders seek further guidance on three aspects of the standard provision: (1) the meaning of "provide financial support to any other foreign organization that conducts such activities"; (2) the termination provision; and (3) the application of the policy to in-kind assistance, such as training and technical assistance (TA).

1. *"Financial Support" Provision*

The standard provision states that foreign NGOs (FNGOs) that receive U.S. global health assistance will not "perform or actively promote abortion as a method of family planning in foreign countries or *provide financial support to any other foreign non-governmental organization that conducts such activities*" (italics added). The policy prohibits FNGOs from providing a sub-award to another FNGO that performs or actively promotes abortion as a method of family planning under a global health assistance award from the U.S. government. The standard provision clearly articulates what it means to perform or actively promote abortion as a method of family planning. The standard provision does not, however, specifically define the "financial support" requirement.

Large NGOs with multiple activities across health and development express the need for guidance regarding the application of the language on "financial support." Organizations do not share a common understanding of this language, and several interpretations have emerged. Some NGOs interpret the requirement to mean that an FNGO subject to the PLGHA policy may not, with any source of funds, provide funding to any other FNGO for the purpose of performing or actively promoting abortion as a method of family planning. Others interpret the requirement to mean that an FNGO subject to the PLGHA policy would be prohibited from providing funding, with any source of funds, to another FNGO that performs or actively promotes abortion as a method of family planning. This latter interpretation would mean that the FNGO awardee would need to ensure that each of what could be a very large number of sub-recipients to which it provides its own funding does not perform or actively promote abortion as a method of family planning. This would require that awardees conduct extensive due diligence on their own partners' finances, even when those organizations receive from them no U.S. government funds. Awardees would also assume significant risk under their U.S. government award, including termination, for the sub-recipients' activities that the awardees do not themselves fund.

Therefore, the "financial support" provision needs clarification. An approach that places the appropriate level of due diligence on implementing partners for their U.S. global health assistance funds will ensure that the U.S. government is able to work with capable organizations while preventing U.S. taxpayer dollars from funding the promotion or performance of abortion as a method of family planning abroad. (The clarification would not change the standard

provision requirement that an FNGO subject to the policy cannot provide U.S. global health assistance to any other FNGO unless such sub-recipient agrees to the PLGHA policy.)

Action: Revise the PLGHA standard provision to clarify that FNGOs subject to the policy may not provide any financial support, no matter the source of funds, to any other FNGO for the purpose of performing or actively promoting abortion as a method of family planning.

2. *Termination Provision*

The PLGHA standard provision states that "health assistance furnished to the recipient under this award *must* be terminated if the recipient violates any undertaking required by this [provision]…" (italics added). This is more prescriptive than other U.S. government awards, which generally make termination an option as opposed to a mandatory action following a violation of a condition of the funding. In the event of a violation, the standard provision offers no discretion to U.S. government departments and agencies to continue assistance to FNGOs that might, in good faith, have attempted to abide by the policy's terms. Given the number of FNGOs now subject to the expanded policy that might not have historical experience with implementation of the Mexico City Policy, inadvertent or unintended violations are a possibility. Some discretion in the application of the termination provision would be prudent.

An analogue is USAID's approach to implementation of the Tiahrt Amendment, which requires that family-planning programs financed by USAID are entirely voluntary, and do not, among other things, assign targets or quotas to service-providers, or offer incentives for women to accept family planning. To implement the Amendment, USAID investigates alleged violations, and imposes corrective action in the event it can prove a violation has occurred; this process permits USAID the discretion to direct implementers to remediate the violation and put in place mitigation plans to prevent future missteps instead of automatically proceeding to termination.

With respect to enforcement of the PLGHA standard provision, discretion regarding remediation or termination on the part of the U.S. government could provide opportunities to train and monitor FNGOs that are providing critical services in some parts of the world if they make an honest mistake under the new policy, while still assuring ultimate compliance with the requirements of the PLGHA. In practice, immediate termination would remain the presumptive sanction for egregious or recurrent violation of the PLGHA.

Action: Maintain immediate termination as the presumptive sanction for egregious or recurrent violations of the PLGHA policy, but revise the PLGHA standard provision to clarify that if an FNGO fails to comply with the PLGHA policy, the U.S. government has discretion to require the implementer to remediate and institute corrective action, instead of terminating the award immediately.

3. *Application to Training and Technical Assistance*

The PLGHA standard provision applies to U.S. global health assistance, whether delivered in the form of funds or in-kind assistance. Specifically, the provision states that "[f]urnishing health assistance to a[n FNGO] includes the transfer of funds made available under this award or goods *or services financed with such funds*, but does not include the purchase of goods or services from an organization *or the participation of an individual in the general training programs of the recipient or sub-recipient*" (italics added). Some organizations are not clear when the provision of a service, such as training or technical assistance (TA), funded under a global health assistance award would require application of PLGHA to an FNGO. For example, the question has been raised whether, in the case of an implementer that receives U.S. government funds and provides limited training to service providers at private-sector clinics, such clinics need to comply with the PLGHA policy, and, if so, for how long, given that they receive no support beyond initial training and additional follow-up? Similar examples are numerous across USAID's health portfolio. There is also uncertainty about when partners must apply the policy to FNGOs that receive no funding but receive TA, often with no formal sub-agreement. Frequently, USAID implementers provide training and TA to beneficiaries, such as private-sector nurses or doctors, without a written agreement, which further complicates application of the PLGHA requirements to such recipients.

In a similar vein, USAID has identified challenges in applying the policy to programming that hinges on continued partnership with private-sector entities in some settings. It is a major aim of the U.S. government's global health assistance to improve stewardship by foreign governments of their healthcare marketplace, increase private-sector delivery of healthcare, and ensure higher quality in both public and private healthcare provision.

USAID often engages a range of types of private-sector providers through the provision of TA or training only. These include small private health facilities, local pharmacies, insurance companies, international consulting firms, private universities and hospitals, and local entrepreneurs and innovators. Particularly with providers who are at a lower, or community, level in the health system (for example, pharmacists or village doctors), the engagement models used by USAID and its partners often consist of offering light-touch guidance on certain technical areas or tasks, without concluding an agreement to provide financing to an organization. In this context, some private providers have been uncomfortable in signing on to the policy with its due diligence requirements when they only receive TA or training from USAID on a specific health intervention, not financing.

Clarifying that the PLGHA policy does not apply to beneficiaries of training and TA that are not FNGO awardees or sub-awardees would allow U.S. government departments and agencies to better focus their compliance resources, and provide clarity that could further our ability to reach the front lines of healthcare, including through private-sector providers.

Action: Revise the standard provision and create corresponding publicly available materials to clarify that the PLGHA requirements apply to recipients/beneficiaries of training and technical assistance only if they are FNGOs that receive an award or sub-award of U.S. government global health assistance funds.

Monitoring through the President's Emergency Plan For AIDS Relief

The interagency has taken important steps to monitor the implementation of the policy, as noted above. To assess the impact of the PLGHA policy on HIV/AIDS services, PEPFAR will continue its routine capture, monitoring, and use of age- and sex- disaggregated data, by partner and by site, to track precisely whether and to what extent the PLGHA policy has affected life-saving activities related to HIV/AIDS. In addition, S/GAC will develop guidance for U.S. government departments and agencies on how to use PEPFAR's routine Site Improvement and Monitoring Systems (SIMS) visits as an ongoing opportunity to track site-level impacts of the policy and monitor compliance with it. S/GAC will also include instructions on the PLGHA provisions in its Country Operational Plan guidance for 2018 to help ensure partners are clear about the policy.

Action: Task S/GAC, working with the interagency, to develop guidance for PEPFAR implementing agencies on how to better use SIMS visits to track, monitor, and ensure compliance with the PLGHA policy in PEPFAR programs.

Additional Review

This six-month review takes place early in the policy's implementation, when affected U.S. government departments and agencies have added a significant portion of the funding affected by the policy to grants and cooperative agreements only recently. A follow-on analysis would allow an opportunity to address one of the primary concerns presented in feedback from third-party stakeholder organizations, namely that six months is insufficient time to gauge the impacts of the PLGHA policy.

Action: Conduct a further review of implementation of the policy by December 15, 2018, when more extensive experience will enable a more thorough examination of the benefits and challenges.

Page 33 of 61

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Page 35 of 61

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Page 37 of 61

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

Page 40 of 61

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information Act

PLGHA Updates

April 25, 2018

1. Next Review

2. CEE/SIMS

3. Contracts / FAR

4. Exemption Requests

5. FAQ's for Public

6. FOIA

7. GAO

8. Standard Provision

Protecting Life in Global Health Assistance Six-Month Review

Report
Washington, DC
February 6, 2018

The information below summarizes the implementation of the Protecting Life in Global Health Assistance (PLGHA) policy through the end of fiscal year 2017, and identifies implementation challenges that have arisen, along with actions to address them.

I. Background on Protecting Life in Global Health Assistance

On January 23, 2017, President Trump issued a Presidential memorandum reinstating the January 22, 2001, Presidential memorandum on the "Mexico City Policy" for family-planning assistance awarded by USAID, and directing the Secretary of State, in coordination with the Secretary of Health and Human Services, to implement a plan to extend the Mexico City Policy to "global health assistance furnished by all departments or agencies" to the extent allowable by law. The expanded policy is referred to as "Protecting Life in Global Health Assistance (PLGHA)."

On May 9, 2017, the Secretary of State, in coordination with Secretary of Health and Human Services, approved the implementation plan for the PLGHA policy. State, working with USAID, HHS, and DoD, committed to conduct a comprehensive review of progress in extending the policy to global health assistance, identify any implementation challenges, and recommend solutions to them. State has worked closely with USAID, HHS, and DoD to implement the policy consistently, examine progress in carrying it out, and monitor its effects.

With less than six months of policy implementation, it is too early to assess the full range of benefits and challenges of the PLGHA policy for global health assistance. State, HHS, DoD, and USAID have been adding a standard provision implementing the policy in new grants and cooperative agreements for global health assistance, and in existing global health assistance grants and cooperative agreements when they receive new funding. Departments and agencies obligated much of the global health assistance funding subject to the policy toward the end of the fiscal year, and not all existing agreements have received new funding, so the picture on progress and challenges is still developing.

The content of this report reflects both internal and external feedback. Each implementing department and agency conducted focus groups or structured conversations with selected internal operating units. USAID spoke with seven management teams at headquarters, as well as four field Missions. HHS spoke with four of its operating divisions that conduct programs to which the policy applies (the Centers for Disease Control and Prevention, the National Institutes of Health, the Health Resources and Services Administration, and the Substance Abuse and Mental Health Services Administration), and conducted focus groups with field staff in two countries. DoD focused its discussions at headquarters, where it awards and manages the majority of its agreements. In addition, in the course of implementing the policy, the Department of State and relevant departments and agencies conducted numerous calls and meetings with operating units, implementing partners, and other stakeholders that contributed to our analysis.

The Department of State requested stakeholder comments on the implementation of the policy to date. Thirty-one stakeholder groups, including three foreign governments as well as non-governmental entities, provided written comments. Of those stakeholder groups, several submitted comments in support of the policy. For example, the United States Conference of Catholic Bishops lauded PLGHA as "one of the most significant policy initiatives on abortion ever taken by the United States in an area of foreign assistance." Others expressed the need for guidance on aspects of the policy, concerns about the continuity of healthcare services, and a potential chilling effect of the policy on global health services in situations in which the application of the policy is unclear.

II. Implementation by U.S. Government Departments and Agencies

As of September 30, 2017, the Department of State (including the Office of the U.S. Global AIDS Coordinator and Health Diplomacy (S/GAC)), USAID, HHS, and DoD have taken multiple steps to implement the PLGHA policy. The interagency developed a common PLGHA standard provision for relevant agreements with minor department- or agency-specific variations. Departments and agencies are including the standard provision in grants and cooperative agreements for global health assistance, and are conducting numerous trainings to ensure the U.S. government workforce is appropriately applying the policy. In addition, the interagency is taking steps to develop a standard PLGHA clause in contracts for global health assistance at multiple departments and agencies.

Department of State

S/GAC directed the U.S. government departments and agencies that implement the President's Emergency Plan for AIDS Relief (PEPFAR) to include the PLGHA standard provision in all PEPFAR grant agreements for global health assistance. S/GAC included the standard provision in all centrally funded PEPFAR global health assistance awards completed by September 30; many awards had not been made as of that date. S/GAC facilitated web-based training across U.S. government implementing departments and agencies in over 60 countries to ensure the maximum number of staff could receive training on the policy. S/GAC has also conducted training of trainers, to allow the information to cascade to increasing numbers of U.S. government personnel around the world. For those activities managed through Department of State mechanisms, the standard provision will continue to be a part of all future global health assistance awards, and existing awards modified with new funding. The new standard provision is available on the Department of State website (https://www.state.gov/m/a/ope/index.htm).

U.S. Agency for International Development

USAID began implementing the policy on May 15, 2017. USAID has included the new PLGHA standard provision in all new grants and cooperative agreements that provide global health assistance, and in all existing grants and cooperative agreements that provide global health assistance when it amends such agreements to add incremental funding. USAID also is including the provision in all existing agreements that previously received the "Mexico City Policy (March 2017)" standard provision when such agreements are next modified, or as soon as reasonably practicable. The new standard provision, "Protecting Life in Global Health Assistance (May 2017)," is publicly available on the USAID website in the Agency's Automated Directives System (ADS) Chapter 303 (https://www.usaid.gov/ads/policy/300/303).

After the announcement of the PLGHA policy, USAID/Washington conducted extensive outreach to, and training for, its staff in the field and at headquarters. In addition, USAID established a team in Washington with representatives from across the Agency to oversee the proper implementation of the policy. USAID/Washington's outreach also included meetings with implementing partners to discuss the standard provision and its application.

USAID/Washington continually works with USAID's field missions to review programs, monitor compliance with the PLGHA policy and other requirements, and develop stronger, more-systematic procedures for monitoring and reporting. USAID has developed training materials and compliance tools to assist its staff and implementing partners in understanding and applying the policy, including a publicly available e-learning course that has been very well received. USAID/Washington continues to design additional tools to facilitate the policy's implementation, including a matrix to help staff review their programs to assess compliance risk related to the policy. This tool supports staff to identify potential vulnerabilities and develop effective monitoring strategies to ensure compliance with the policy. USAID shared the risk assessment matrix with all its missions that are implementing global health programs.

Department of Health and Human Services

Early in March 2017, HHS began to establish parameters for the implementation of the PLGHA policy across HHS. The HHS-specific standard provision was finalized and distributed for inclusion in all applicable grant awards as of May 31, 2017. The standard provision with explanatory language is published on grants management internet sites HHS-wide, and standard language appears in all Notices of Funding Opportunities (NOFOs) that expect to award global health assistance funds appropriated to State, USAID, and/or DoD and transferred to HHS.

HHS has integrated its compliance activities into grant award processes prior to the notice of award (NOA) via several methods of communication with the awardees, including through site visits, conference calls, emails, in-person conversations, official letters of notification, and postings on the websites of its operating divisions. At the time of issuance of an NOA, the relevant grants management and program staff review with the awardee the details of the policies and regulations that govern the acceptance of the PLGHA conditions. Official acceptance by the awardee of the provision occurs once the awardee draws down funds. Because the majority of these awards are cooperative agreements (which denote close working coordination and collaboration between HHS and an awardee), site visits, project oversight, monitoring calls, grant management meetings and other communications with the awardees occur on a frequent basis.

HHS has developed monitoring tools that implementing partners can use to monitor their programs for compliance with the

PLGHA standard provision. Technical assistance from HHS is available to assist partners to use these standardized tools. To assist HHS staff, frequently asked questions (FAQs) specific to HHS grants management and partners are published on the HHS grants management Intranet site, accompanied by relevant background material, and updated as needed.

Department of Defense

All active DoD grants for global health assistance will include the provision by the end of FY 2018. DoD informed implementing partners regarding the provision prior to making an award. For all future awards, DoD will notify the implementing partner prior to its submission of a full proposal.

Contract Provision

Consistent with the PLGHA implementation plan, the Department of State and USAID initiated the process of developing, through rule-making, a PLGHA contract clause. It is expected that the requirements of the contract clause would be similar to those included in the standard provision for grants and cooperative agreements. The clause would be included in contracts for supplies or services for global health assistance except for the procurement of commercial items and services as defined in FAR 2.101, such as pharmaceuticals, medical supplies, logistics support, data management, and freight-forwarding. It would apply to foreign NGOs that receive global health assistance funding, either as prime contractors or as subcontractors of U.S. or foreign NGOs. The PLGHA policy will not apply to contracts for global health assistance until the rule-making process is completed.

Grants and Cooperative Agreements

The table below provides information about the number of affected agreements with prime implementing partners, i.e., those organizations that have a direct agreement with a U.S. department or agency. Information on sub-awards under these prime agreements is limited because U.S. departments and agencies only have a legal relationship with prime recipients.

Agency	Agency Implementation Date	Number of Grants and Cooperative Agreements with Global Health Assistance Funding	Number of Grants and Cooperative Agreements with Global Health Assistance Funding That Received New Funding from the Implementation Date through 9/30/2017 and are subject to the PLGHA policy
State[1]	15-May-17	142	108
USAID	15-May-17	580	419
HHS	31-May-17	499	160
DoD	15-May-17	77	42

[1This reflects PEPFAR funding implemented through the Department of State. (Other departments and agencies implement the majority of PEPFAR funding.)]

The table above demonstrates that a majority of global health assistance agreements have already received new funding, and therefore are subject to the PLGHA policy. Nearly all prime partners that have had the opportunity to accept the policy have done so; prime partners declined to sign in only four instances out of 733 awards. All four affected departments and agencies have existing assistance agreements that had not yet received their additional funding by September 30, 2017, which means implementers of those agreements had not yet received the PLGHA standard provision. The difference between the number of total agreements and the agreements that have received funding since the effective date of the PLGHA policy reflects this; this number will decrease over the coming year as departments and agencies provide more funding to implementing partners.

As of September 30, 2017, USAID is aware of three centrally funded prime partners, and 12 sub-awardee implementing partners, that refused to agree to the PLGHA terms in their awards. USAID is working to transition the activities of those organizations that have not agreed to the PLGHA standard provision to other partners, while minimizing disruption of services. One DoD partner, a U.S. NGO, declined to agree in one country but accepted the PLGHA standard provision in other countries. No HHS partners declined as of September 30. It is too early to analyze systematically what effect, if any, this will have on programming. When a partner declines to agree to the policy and the department or agency reprograms funds to other organizations, the amount of funding directed to respective recipient

countries will remain the same.

Training

Implementing departments and agencies have conducted numerous trainings on the PLGHA policy, and used standardized joint training materials developed by an interagency working group. In addition, USAID developed a free public e-learning course that, as of September 30, 2017, 4,572 people had taken, including staff, partners, and the general public. As of September 30, 2017, USAID/Washington has conducted nine in-person trainings at headquarters, two webinars, and two mission-level trainings. In total, USAID provided live training to approximately 453 staff at headquarters and in the field. S/GAC, with support from USAID, conducted an interagency train-the-trainer, and then a subsequent interagency webinar for over 60 countries that included 78 office connections. HHS conducted four webinar trainings across its operating divisions, with 254 staff participating. For CDC within HHS, training on the PLGHA policy is mandatory for regional associate directors, country directors, deputy directors, project officers, cooperative agreement officers, and extramural staff. DoD conducted one headquarters training, which all relevant staff were required to attend. In addition, all relevant DoD field staff participated in the S/GAC web-based training. In total, U.S. government training reached approximately 5,357 U.S. government employees, implementing partners, and other stakeholders through September 30, 2017.

USAID E-Learning Trainings (through 9/30/17)										
Trainee Organization	International NGO	National/Local NGO	Non-U.S.-Based University	Multilateral	National Gov't	U.S. Agency (CDC)	U.S. Agency (Other)	U.S. Agency (State)	U.S. Agency (USAID)	Oth
Number Trained	2374	934	10	6	27	86	24	5	633	41
										TO1

III. Findings and Actions

While partners presented with the standard provision have largely accepted the policy, stakeholder feedback and discussions with U.S. government staff indicate areas where further guidance is needed. Keeping in mind that the primary goal of the policy is to stop U.S. taxpayer funding from flowing to entities that promote or provide abortions as a method of family planning, several issues emerged as areas that could be clarified or improved. These include providing guidance around implementation, clarifying terms of the standard provision, strengthening monitoring, and continuing to review the policy.

Steps to Improve Understanding and Implementation of the PLGHA Policy

The information gathered to date demonstrates the need for further guidance regarding the PLGHA policy to improve a common understanding of its intent, implementation, compliance, and oversight. For example, organizations shared questions about what work falls within the provisions of the policy, including activities beyond direct services (such as referrals). Stakeholder input also indicates that some organizations are seeking additional guidance regarding what relationships are allowed with organizations that choose not to comply. Additional guidance would help increase clarity and address these concerns.

Action: Upon completion of additional review of policy guidance, U.S. government departments and agencies should provide harmonized, updated central and field-based training, tools for compliance and oversight, and publicly available frequently asked questions (FAQs) for the PLGHA policy that are translated into appropriate languages.

Application to U.S. State and Local Governmental Entities

As described in the PLGHA fact sheet, "[g]lobal health assistance to national or local governments, public international organizations, and other similar multilateral entities is *not* subject to [the PLGHA] policy." There was a question whether the standard provision on the PLGHA policy should be part of global health assistance awards to public universities, hospitals, or other state/local government entities in the United States.

Action: Clarify, including through the development of appropriate FAQs, that U.S. government departments and agencies

must include the PLGHA standard provision in awards to U.S. state or local governmental entities, including state universities, in the same manner as they include it in awards to U.S. NGOs.

Guidance on the Terms of the Standard Provision for the Protecting Life in Global Health Assistance Policy

Based on the input received, stakeholders seek further guidance on three aspects of the standard provision: (1) the meaning of "provide financial support to any other foreign organization that conducts such activities"; (2) the termination provision; and (3) the application of the policy to in-kind assistance, such as training and technical assistance (TA).

1. *"Financial Support" Provision*

The standard provision states that foreign NGOs (FNGOs) that receive U.S. global health assistance will not "perform or actively promote abortion as a method of family planning in foreign countries or *provide financial support to any other foreign non-governmental organization that conducts such activities*" (italics added). The policy prohibits FNGOs from providing a sub-award to another FNGO that performs or actively promotes abortion as a method of family planning under a global health assistance award from the U.S. government. The standard provision clearly articulates what it means to perform or actively promote abortion as a method of family planning. The standard provision does not, however, specifically define the "financial support" requirement.

Large NGOs with multiple activities across health and development express the need for guidance regarding the application of the language on "financial support." Organizations do not share a common understanding of this language, and several interpretations have emerged. Some NGOs interpret the requirement to mean that an FNGO subject to the PLGHA policy may not, with any source of funds, provide funding to any other FNGO for the purpose of performing or actively promoting abortion as a method of family planning. Others interpret the requirement to mean that an FNGO subject to the PLGHA policy would be prohibited from providing funding, with any source of funds, to another FNGO that performs or actively promotes abortion as a method of family planning. This latter interpretation would mean that the FNGO awardee would need to ensure that each of what could be a very large number of sub-recipients to which it provides its own funding does not perform or actively promote abortion as a method of family planning. This would require that awardees conduct extensive due diligence on their own partners' finances, even when those organizations receive from them no U.S. government funds. Awardees would also assume significant risk under their U.S. government award, including termination, for the sub-recipients' activities that the awardees do not themselves fund.

Therefore, the "financial support" provision needs clarification. An approach that places the appropriate level of due diligence on implementing partners for their U.S. global health assistance funds will ensure that the U.S. government is able to work with capable organizations while preventing U.S. taxpayer dollars from funding the promotion or performance of abortion as a method of family planning abroad. (The clarification would not change the standard provision requirement that an FNGO subject to the policy cannot provide U.S. global health assistance to any other FNGO unless such sub-recipient agrees to the PLGHA policy.)

Action: Revise the PLGHA standard provision to clarify that FNGOs subject to the policy may not provide any financial support, no matter the source of funds, to any other FNGO for the purpose of performing or actively promoting abortion as a method of family planning.

2. *Termination Provision*

The PLGHA standard provision states that "health assistance furnished to the recipient under this award *must* be terminated if the recipient violates any undertaking required by this [provision]…" (italics added). This is more prescriptive than other U.S. government awards, which generally make termination an option as opposed to a mandatory action following a violation of a condition of the funding. In the event of a violation, the standard provision offers no discretion to U.S. government departments and agencies to continue assistance to FNGOs that might, in good faith, have attempted to abide by the policy's terms. Given the number of FNGOs now subject to the expanded policy that might not have historical experience with implementation of the Mexico City Policy, inadvertent or unintended violations are a possibility. Some discretion in the application of the termination provision would be prudent.

An analogue is USAID's approach to implementation of the Tiahrt Amendment, which requires that family-planning programs financed by USAID are entirely voluntary, and do not, among other things, assign targets or quotas to service-providers, or offer incentives for women to accept family planning. To implement the Amendment, USAID investigates alleged violations, and imposes corrective action in the event it can prove a violation has occurred; this process permits USAID the discretion to direct implementers to remediate the violation and put in place mitigation plans to prevent future missteps instead of automatically proceeding to termination.

With respect to enforcement of the PLGHA standard provision, discretion regarding remediation or termination on the part of the U.S. government could provide opportunities to train and monitor FNGOs that are providing critical services in some parts of the world if they make an honest mistake under the new policy, while still assuring ultimate compliance with the requirements of the PLGHA. In practice, immediate termination would remain the presumptive sanction for egregious or

recurrent violation of the PLGHA.

Action: Maintain immediate termination as the presumptive sanction for egregious or recurrent violations of the PLGHA policy, but revise the PLGHA standard provision to clarify that if an FNGO fails to comply with the PLGHA policy, the U.S. government has discretion to require the implementer to remediate and institute corrective action, instead of terminating the award immediately.

3. *Application to Training and Technical Assistance*

The PLGHA standard provision applies to U.S. global health assistance, whether delivered in the form of funds or in-kind assistance. Specifically, the provision states that "[f]urnishing health assistance to a[n FNGO] includes the transfer of funds made available under this award or goods *or services financed with such funds*, but does not include the purchase of goods or services from an organization *or the participation of an individual in the general training programs of the recipient or sub-recipient*" (italics added). Some organizations are not clear when the provision of a service, such as training or technical assistance (TA), funded under a global health assistance award would require application of PLGHA to an FNGO. For example, the question has been raised whether, in the case of an implementer that receives U.S. government funds and provides limited training to service providers at private-sector clinics, such clinics need to comply with the PLGHA policy, and, if so, for how long, given that they receive no support beyond initial training and additional follow-up? Similar examples are numerous across USAID's health portfolio. There is also uncertainty about when partners must apply the policy to FNGOs that receive no funding but receive TA, often with no formal sub-agreement. Frequently, USAID implementers provide training and TA to beneficiaries, such as private-sector nurses or doctors, without a written agreement, which further complicates application of the PLGHA requirements to such recipients.

In a similar vein, USAID has identified challenges in applying the policy to programming that hinges on continued partnership with private-sector entities in some settings. It is a major aim of the U.S. government's global health assistance to improve stewardship by foreign governments of their healthcare marketplace, increase private-sector delivery of healthcare, and ensure higher quality in both public and private healthcare provision.

USAID often engages a range of types of private-sector providers through the provision of TA or training only. These include small private health facilities, local pharmacies, insurance companies, international consulting firms, private universities and hospitals, and local entrepreneurs and innovators. Particularly with providers who are at a lower, or community, level in the health system (for example, pharmacists or village doctors), the engagement models used by USAID and its partners often consist of offering light-touch guidance on certain technical areas or tasks, without concluding an agreement to provide financing to an organization. In this context, some private providers have been uncomfortable in signing on to the policy with its due diligence requirements when they only receive TA or training from USAID on a specific health intervention, not financing.

Clarifying that the PLGHA policy does not apply to beneficiaries of training and TA that are not FNGO awardees or sub-awardees would allow U.S. government departments and agencies to better focus their compliance resources, and provide clarity that could further our ability to reach the front lines of healthcare, including through private-sector providers.

Action: Revise the standard provision and create corresponding publicly available materials to clarify that the PLGHA requirements apply to recipients/beneficiaries of training and technical assistance only if they are FNGOs that receive an award or sub-award of U.S. government global health assistance funds.

Monitoring through the President's Emergency Plan For AIDS Relief

The interagency has taken important steps to monitor the implementation of the policy, as noted above. To assess the impact of the PLGHA policy on HIV/AIDS services, PEPFAR will continue its routine capture, monitoring, and use of age- and sex- disaggregated data, by partner and by site, to track precisely whether and to what extent the PLGHA policy has affected life-saving activities related to HIV/AIDS. In addition, S/GAC will develop guidance for U.S. government departments and agencies on how to use PEPFAR's routine Site Improvement and Monitoring Systems (SIMS) visits as an ongoing opportunity to track site-level impacts of the policy and monitor compliance with it. S/GAC will also include instructions on the PLGHA provisions in its Country Operational Plan guidance for 2018 to help ensure partners are clear about the policy.

Action: Task S/GAC, working with the interagency, to develop guidance for PEPFAR implementing agencies on how to better use SIMS visits to track, monitor, and ensure compliance with the PLGHA policy in PEPFAR programs.

Additional Review

This six-month review takes place early in the policy's implementation, when affected U.S. government departments and agencies have added a significant portion of the funding affected by the policy to grants and cooperative agreements only recently. A follow-on analysis would allow an opportunity to address one of the primary concerns presented in feedback from third-party stakeholder organizations, namely that six months is insufficient time to gauge the impacts of the PLGHA policy.

Action: Conduct a further review of implementation of the policy by December 15, 2018, when more extensive experience will enable a more thorough examination of the benefits and challenges.

SONKE GENDER JUSTICE

HIV/AIDS • GENDER EQUALITY • HUMAN RIGHTS

Reg. No: 2006/023739/08

February 12th, 2018
The Honorable Secretary of State Rex W. Tillerson
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

The Honorable Secretary of Health and Human Services Alex Azar
U.S. Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Request for Exemption from Certain Funding Restrictions under USAID

Dear Sirs:

We submit this letter to request an exemption from the Protecting Life in Global Health Assistance policy. As one of the largest organisations on the continent focused on advancing addressing gender based violence, and as an organisation with a proud and widely recognised track record, and rigorous research evidence showing that our interventions do in fact reduce women's vulnerabilities to GBV and HIV, we believe it is vital that we be able to apply for the large amounts of USAID funding recently made available to address GBV and HIV. We lay out below the reasons for our application for the exemption and the reasons we are not able to sign the policy.

Background:
On January 23, 2017, President Trump issued a Presidential Memorandum reinstating the "Mexico City Policy" (renamed "Protecting Life in Global Health Assistance" by the Trump Administration and hereinafter referred to as the "Policy"). The memorandum directed the Secretary of State to extend, to the extent allowable by law, the Policy to global health assistance furnished by all departments or agencies. As an organization interested in applying for funding from USAID and PEPFAR, we understand that we would be subject to the Policy should we successfully apply for funding.

The purpose of the Policy is that it "prohibits the provision of U.S. funding for global health assistance to any non-U.S. non-governmental organization that performs or actively promotes

Cape Town Office
4th Floor, Westminster House
122 Longmarket Street, Cape Town, 8001
P.O. Box 3126, Cape Town, 8001
Tel: +27 21 4237088 . Fax. +27 21 424 5645

Johannesburg Office
Stevenson Building, 3rd Floor, 62 Juta Street,
Braamfontein 2017
P.O. Box 31166. Braamfontein 2017
Tel. +27 11 339 3589. Fax. +27 11 339 6503

Bushbuckridge Office
Agincourt Health Centre
Bushbuckridge Local Municipality
Mpumalanga
Tel. +27 13 795 5076 . Fax. +27 76 411 2665

www.genderjustice.org.za . info@genderjustice.co.za

Copy for files

abortion as a method of family planning". It further states "Health assistance furnished to the recipient under this award must be terminated if the recipient violates any undertaking required by this paragraph (a), and the recipient must refund to USAID any unexpended amounts furnished to the recipient under this award, plus an amount equivalent to that used by the recipient to perform or actively promote abortion as a method of family planning while receiving funding under this award.."

However, the Trump Administration has announced a number of exceptions to the application of the Policy. On May 15, 2017, the administration issued further guidance regarding the Policy, stating that the Secretary of State, in consultation with the Secretary of Health and Human Services, may authorize case-by-case exemptions to the Policy.

Through PEPFAR, the US Government has provided impressive leadership to address HIV and AIDS since President Bush made his landmark announcement during the 2003 State of the Union Address. South Africans, like our neighbours across the continent, are extremely grateful to the US Government and US citizens for the tremendous commitment they have shown to address HIV and AIDS over the last fifteen years.

The US Government has also provided sterling global leadership to address and prevent gender based violence over many years, including through the authorisation of the Internatiional Violence Against Women Act of 2015 (I-VAWA), the establishment of the State Department's office for Global Women's Issues in 2009, and through its advocacy on the linkages between gender inequalities, GBV and women's vulnerabilities to HIV.

Context in South and Southern Africa:
We are very excited to see the new calls for proposals recently issued in South Africa, and forthcoming in the region, to address the vulnerabilities to HIV experienced by women and adolescent girls because of rigid and inequitable gender roles, and because of domestic violence and rape. The level of funding potentially available through these new PEPFAR funding mechanisms is far greater than usually available. If awarded to effective partners with credible track records, these funding streams can bring about significant improvements in women's health and wellbeing by reducing their vulnerabilities to GBV and HIV.

South and Southern Africa faces an epidemic of violence against women and children. In South Africa, Intimate partner violence is the leading cause of death of women homicide victims with 56% of female homicides committed by an intimate partner. South African Police Services report that for the period 2016-2017, a total of 49,660 sexual offences were recorded by the police. Other studies show that the actual number is far higher. The Medical Research Council has estimated that only one in nine rapes are reported to the police, and a 2010 study in Gauteng province found that while one in 13 women raped by a non-partner reported the matter to the police, only one in 25 women raped by their partners reported the offence. A recent and widely reported study conducted by the University of Witwatersrand in Diepsloot, a large township in Johannesburg, revealed that 38% of men (two in five) admitted to having forced a woman to have sex--and 54% reported using domestic violence—just in the last twelve months.

Elsewhere in Africa women experience similarly problematic levels of violence. Recent research by the World Health Organisation found that for combined intimate

partner and non-partner sexual violence, or both, among all women of 15 years or older, Africa had the highest levels of violence against women of all WHO regions: 45.6% of women in Africa compared with 35% of women globally will experience either intimate partner or non-partner violence in their life time.

Many studies also show that women who experience gender based violence are far more likely to contract HIV than those who are in healthy, non-violent relationships. GBV and gender inequalities more broadly undermine women's economic independence, subject women to violence and sexual aggression, deny women control over their sexual and reproductive lives and expose them to HIV.

Against the backdrop of these twin epidemics of violence against women and HIV and AIDS, we are now writing to request an exemption from the terms of the Policy. The recently announced USAID funding streams provide us with a critical opportunity to significantly expand our high impact violence prevention interventions and strategies. However, the Protecting Life in Global Health Assistance Policy prevents us from bringing our expertise to bear. In so doing, it hinders potential efforts to address women's vulnerabilities to gender based violence and HIV in South Africa and across the region.

Overview of Sonke:

Established in 2006, Sonke is the largest organisation in South Africa, and perhaps the largest on the African continent, focused on addressing gender based violence. It has won many national and international human rights awards for its high impact work to address and prevent gender based violence. It is widely recognized in South Africa and in the region for its pioneering efforts and is trusted and sought out by citizens and civil society organizations alike. Sonke has six offices in five of South Africa's nine provinces, employs almost one hundred staff, and supports nearly sixty local Sonke community action teams across the country to take action to address rape and domestic violence. The organisation uses a combination of six strategies to address violence against women: 1) community education and mobilisation, 2) legal and policy reform, 3) communications and mass media engagement, 4) coalition and network building, 5) research and monitoring and evaluation, 6) organisational development and capacity building. In the region we work in twenty countries and provide training, technical assistance and organizational support, including sub-grants to dozens of partner organisaations in Southern, East, Central and West Africa.

Sonke's work in South Africa and across Africa has been extensively evaluated, including through randomised control trials funded by the US National Institute of Health and done in conjunction with UNC Chapel Hill, the University of California San Francisco, the London School of Hygiene and Tropical Medicine,, and others. These evaluations show that Sonke's work reduces levels of violence against women in local communities, including by effectively mobilizing men to challenge GBV. Indeed, these evaluations demonstrate that Sonke achieves exactly the kind of results PEPFAR seeks to bring about through the recently announced funding opportunities: decreased use of intimate partner violence by men, increased community action to address GBV, increased awareness of the relationship between GBV and HIV, and improved use of HIV

services, especially amongst men. Sonke's legal and policy advocacy has also led to important changes in national laws and policies on GBV and HIV and thereby improved the health and wellbeing of women and their children.

South Africa, and especially South African women and girls, desperately need action on GBV and HIV—and they need organizations like Sonke to be able to provide its expertise, capacity and leadership to prevent the endemic rape and domestic violence, and the increased vulnerability to HIV it causes, which are experienced by millions of South African women.

Women in South Africa and across Africa need organizations like Sonke to be fully involved in all efforts to end GBV. Sonke has the capacity, the connections with local, provincial and national government, and the necessary track record to play a vital leadership role in addressing and preventing GBV. However, despite the organization's impressive track record on GBV and the desperate need for effective interventions to reduce endemic violence against women in South Africa, Sonke is not able to apply for USAID funding because of provisions within the Protecting Life in Global Health Assistance Policy with which we are unable to comply.

Why we cannot sign the policy:

We are not able to certify compliance with Protecting Life in Global Health Assistance because we are often the only source of information about safe and legal abortion for women in rural areas who may need to access abortion after rape, including because of incest, or because their pregnancy represents a threat to their own health or lives. Women in South Africa and across the continent need information to safeguard their health and wellbeing, including about abortion in cases of rape, incest or danger to their own lives.

We are also unable to sign the Policy because we know that the legalization of abortion and the passage of the South African Choice on Termination of Pregnancy Act of 1997 dramatically decreased morbidity and mortality for women. According to research published in the South African Medical Journal by Jewkes and Rees, two of South Africa's most respected women's health researchers, as a result of the passage of this act there was a dramatic improvement in women's health and wellbeing: high morbidity from incomplete abortions halved between 1994 (16.5%) & 2000 (9.5%), permanent genital injuries from incomplete abortions decreased from 3.2% (1994) to 0.6% (2000), and, strikingly, there was a 91.1% reduction in deaths to women due to abortion. As should be the case for all organizations working for women's health and wellbeing, Sonke must reserve the right to engage in advocacy activities to sustain women's right to safe and legal abortion so as to safeguard the improvements to women's health the TOP Act has brought about.

We are certain that it was never the intention of US policy makers to diminish the ability and impact of organizations with proven track records on GBV and HIV prevention. However, the conditions of the Protecting Life in Global Health Assistance Policy will prevent us from applying. As such, it will have the unintended and perverse effect of

hindering Sonke's ability to address GBV and HIV amongst South African women, and it will impede efforts to advance women's health and safety.

We do not believe that the PLGHA policy is intended to prevent organisations like Sonke Gender Justice from applying for USAID funds. Requests for Proposals like **#72067418RFA00002** entitled "Preventing HIV/AIDS in Vulnerable Populations in South Africa" are intended to address and prevent GBV and reduce women's vulnerabilities to HIV. Others are expected to be announced in the coming weeks in other parts of Africa. These and other similar grants would allow Sonke and its partners significantly greater capacity to implement our proven strategies, which we know work to reduce GBV and decrease women's vulnerabilities to HIV, and thereby decrease the likelihood that women will experience violence, that they acquire HIV from unwanted sexual activities, or that they will transmit HIV during pregnancy.

We seek permission to apply for and receive USAID funding without signing the Protecting Life in Global Health Assistance Policy.

Please contact us at the address below at your earliest convenience regarding this matter:

Sonke Gender Justice
122 Longmarket Street
Attn: Dean Peacock, Co-Executive Director
Tel: +27 21 423 7088
Email: dean@genderjustice.org.za

Thank you for your attention to this matter.

Sincerely,

Dean Peacock, Co-Executive Director

Heather Van Niekerk, Co-Executive Director